

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

*

MITCHELL SYMISTER,

*

Plaintiff

*

v.

*

CIVIL NO. JKB-13-106

TIMOTHY BLASKO *et al.*,

*

Defendants

* * * * *

MEMORANDUM

This civil rights case alleging police brutality occurring on August 8, 2009, was filed in Baltimore City (Maryland) Circuit Court on August 15, 2012. (Compl. 1, ECF No. 2.) It was removed thereafter to this Court. (ECF No. 1.) The nine counts assert claims of assault and battery, negligence, and violations of civil rights. Defendants have filed motions to dismiss on various grounds, including the statute of limitations. (ECF No. 11, 14.) Plaintiff Mitchell Symister, proceeding *pro se* in this Court, filed no response to the motions despite receiving a “Rule 12/56” letter from the Clerk of Court. (ECF No. 15.) The motions will be granted.

Applying Maryland’s statute of limitations to the common-law counts, the Court concludes suit on those counts is untimely because the case was filed beyond the statutes of limitations. Assault claims must be filed within one year of the date the action accrues. *See* Md. Code Ann., Cts. & Jud. Proc. § 5-105 (LexisNexis 2006). Battery claims are subject to a three-year statute of limitations. *See* Section 5-101 (“A civil action at law shall be filed within three years from the date it accrues unless another provision of the Code provides a different period of time within which an action shall be commenced.”). *See also Ford v. Douglas*, 799 A.2d 448, 450-51 (Md. Ct. Spec. App. 2002) (three-year general statute of limitations applies to

battery claims). The negligence claims are also subject to the three-year statute of limitations. *See generally Poole v. Coakley & Williams Const., Inc.*, 31 A.3d 212 (Md. 2011) (applying three-year limitation to negligence action). The civil rights claims are brought pursuant to 42 U.S.C. § 1983. The analogous state statute of limitations applies to § 1983 claims. *Wilson v. Garcia*, 471 U.S. 261, 280 (U.S. 1985). In Maryland, the analogous statute is the three-year general statute of limitations. Thus, all claims asserted by Symister are barred by the statutes of limitations. A separate order will issue dismissing the case.

DATED this 11th day of March, 2013.

BY THE COURT:

/s/
James K. Bredar
United States District Judge